

**AMENDMENTS TO THE DRAWINGS:**

Figure 3 has been amended to change the spelling of "Maintaine" to "Maintain. Replacement sheet 3/3 is attached hereto.

## **REMARKS/DISCUSSION:**

This Amendment A is being filed within three months after the shortened statutory period for response that ended on August 4, 2006. Accordingly, a Petition for a Three-Month Extension of Time is attached hereto.

By this Amendment A, claims 1-11 have been withdrawn. Original claims 12-15 and new 16-19 are pending in this application. Claim 12 has been amended. Support for the amendment to claim 12 can be found at paragraph 26, and support for new claims 16-19 can be found at paragraphs 19, 20, 23 and 26.

Amendment and/or cancellation of claims is not to be construed as a dedication to the public of any of the subject matter of the claims previously presented. Further, Applicant(s) reserves the right to prosecute the subject matter of such claims in continuation and/or divisional applications.

Applicant has carefully studied the outstanding Office Action. This Amendment is intended to be fully responsive to all points of rejection raised by the Examiner and is believed to place the application in condition for allowance. Favorable reconsideration and allowance of the application are respectfully requested.

### **Drawings**

The drawings stand rejected because of a misspelling of Fig. 3. A Replacement Sheet of drawing sheet 3/3 is attached hereto.

### **Rejection under 35 U.S.C. § 103(a)**

Claim 12 stands rejected as being unpatentable over Mengelt (5,473,533) and Bachinski et al. (2003/0173828). Neither Mengelt nor Bachinski alone or in combination, disclose or suggest the claimed invention.

Claim 13 stands rejected as applied to claim 12 above, and further in view of Kawai (JP2000-125484A). Neither Mengelt nor Bachinski nor Kawai alone or in combination, disclose or suggest the claimed invention.

Claims 14-15 stand rejected as applied to claim 12 above, and further in view of Faberman et al. (5,978,236). Neither Mengelt nor Bachinski nor Faberman alone or in combination, disclose or suggest the claimed invention.

Under MPEP 2143, in order to establish a *prima facie* case of obviousness, the prior art reference or combination of references must teach or suggest all of the limitations of a claim.

With respect to independent claim 12, Applicant submits that the combined art of record fails to teach or suggest all of the limitations recited in independent claim 12. In particular, the combined art of record fails to teach or suggest, “maintaining the functionality of the sedation and/or analgesia system in a variable mode during delivery of power from the battery”. The combined art of record therefore fails to render independent claim 12 obvious in accordance with MPEP 2143.03. Applicant therefore respectfully requests that the rejections be withdrawn.

Applicant further submits that the combined art of record fails to teach or suggest all of the limitations recited in independent claim 16. For instance, claim 16 recites an act of “monitoring the functionality of the system; and terminating the supply of power from the battery if a failure or malfunction is sensed during step [monitoring of the functionality]”. Accordingly, the combined art of record fails to render independent claim 16 obvious in accordance with MPEP 2143.03.

Beyond the foregoing shortcomings with respect to the rejections of the independent claims, Applicant further notes that the dependent claims include additional limitations not taught or suggested in the art of record, thus forming independent basis for novelty and non-obviousness. Applicant therefore respectfully requests that the rejections be withdrawn.

While Applicant has noted several distinctions over the art of record, Applicant notes that several other distinctions exist, and Applicant preserves all rights and arguments with respect to such distinctions.

### **Conclusion**

Applicant submits that in view of the discussion, the rejections under 35 U.S.C. § 103 have been overcome and that the invention is now patentable over the cited prior. The Examiner is respectfully requested to reconsider all rejections and pass this case to issue.

Should any minor points remain prior to issuance of a Notice of Allowance, the Examiner is requested to telephone the undersigned at the below-listed telephone number.

The Commissioner is hereby authorized to charge any additional fees, which may be required to Account No. 10-0750/END-883NP/VEK.

Respectfully submitted,

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